

SENATE BILL No. 294

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2-47.8; IC 13-17.

Synopsis: Local air pollution control agency contracts. Authorizes a county, city, or town to establish or designate an agency to act for the county, city, or town as a local air pollution control agency (agency). Requires the commissioner of the department of environmental management (department) to enter into a contract with the agency of a county, city, or town if the agency is willing to enter into the contract. Provides that a contract between the department and the agency of a county, city, or town must: (1) require the department to advise, cooperate with, and provide technical assistance to the agency; (2) authorize the agency to undertake air pollution control activities on behalf of the department or in enforcement of ordinances of the county, city, or town; and (3) provide for the payment of fair monetary compensation for the air pollution control activities performed by the agency. Provides that: (1) the compensation paid to an agency must be at least sufficient to cover the agency's staffing and operating costs; and (2) the rate of compensation must be adjusted each year according to changes in the Consumer Price Index.

Effective: July 1, 2019.

Randolph Lonnie M

January 7, 2019, read first time and referred to Committee on Environmental Affairs.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 294

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-11-2-47.8 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2019]: **Sec. 47.8. "CPI-U", for purposes of**
4 **IC 13-17-3-9.5, means the Consumer Price Index for All Urban**
5 **Consumers for the United States, all items, as issued monthly by**
6 **the United States Bureau of Labor Statistics.**

7 SECTION 2. IC 13-17-3-9.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2019]: **Sec. 9.5. (a) The commissioner shall enter into a contract**
10 **described in subsection (b) with a local air pollution control agency**
11 **that:**

12 (1) **is established or designated by a county, city, or town**
13 **under IC 13-17-12-1(b); and**
14 (2) **is willing to enter into the contract.**

15 (b) **A contract entered into under this section must do the**
16 **following:**

17 (1) **Require the department to:**



- 1 (A) advise, consult, and cooperate with; and
2 (B) provide technical assistance to;
3 the local air pollution control agency.
4 (2) Either:
5 (A) authorize the local air pollution control agency to
6 undertake air pollution control activities, including:
7 (i) monitoring of regional ambient air quality; and
8 (ii) within the local air pollution control agency's
9 jurisdiction, issuing operating permits and operating
10 permit revisions, performing compliance inspections,
11 responding to complaints and emergencies, and initiating
12 enforcement actions;
13 on behalf of the department; or
14 (B) authorize the local air pollution control agency
15 established or designated by a county, city, or town to:
16 (i) issue operating permits and operating permit
17 revisions;
18 (ii) perform compliance inspections;
19 (iii) respond to complaints and emergencies; and
20 (iv) initiate enforcement actions;
21 as authorized by ordinances of the county, city, or town
22 that are consistent with or more restrictive than the air
23 pollution control laws.
24 (3) Provide that the local air pollution control agency must be
25 paid fair monetary compensation for the air pollution control
26 activities described in subdivision (2) from funds available to
27 the department for administration of the air pollution control
28 laws, including the following:
29 (A) United States Environmental Protection Agency
30 federal grant funding for the purpose of air pollution
31 control program support activities funded under Section
32 105 of the federal Clean Air Act (42 U.S.C. 7405), as
33 further described in Section 66.001 of the Catalog of
34 Federal Domestic Assistance.
35 (B) United States Environmental Protection Agency
36 federal grant funding for the purpose of PM2.5 air
37 monitoring activities funded under Section 103 of the
38 federal Clean Air Act (42 U.S.C. 7403), as further
39 described in Section 66.034 of the Catalog of Federal
40 Domestic Assistance.
41 (C) Revenue from annual operating fees established by 326
42 IAC 2.



1 **(D) The environmental management special fund**
 2 **established under IC 13-14-12.**

3 **(E) Any other source of funds approved by the governor**
 4 **and the budget agency.**

5 **(c) If a local air pollution control agency that has entered into**
 6 **a contract under this section applies for grant funding described in**
 7 **subsection (b)(3)(A) or (b)(3)(B), the commissioner shall:**

8 **(1) review, advise the local air pollution control agency**
 9 **concerning, and approve the application of the local air**
 10 **pollution control agency; and**

11 **(2) facilitate the resulting grant funding agreement between**
 12 **the United States Environmental Protection Agency and the**
 13 **local air pollution control agency.**

14 **(d) The monetary compensation provided to a local air pollution**
 15 **control agency under a contract entered into under this section:**

16 **(1) must be at least sufficient to cover the staffing and**
 17 **operating costs incurred by the local air pollution control**
 18 **agency in performing air pollution control activities described**
 19 **in subsection (b)(2); and**

20 **(2) shall be adjusted each year according to the Consumer**
 21 **Price Index for All Urban Consumers for the United States**
 22 **(CPI-U) issued by the United States Bureau of Labor**
 23 **Statistics.**

24 **(e) An adjustment under subsection (d)(2):**

25 **(1) must take place each year not more than thirty (30) days**
 26 **after the release of the CPI-U for January of that year; and**

27 **(2) must adjust the rate of compensation in proportion to the**
 28 **difference between the CPI-U released for January of that**
 29 **year and the CPI-U released for January of the previous year.**

30 **SECTION 3. IC 13-17-12-1 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) Air pollution**
 32 **control laws do not prevent towns, cities, or counties from:**

33 **(1) enforcing local air pollution ordinances consistent with air**
 34 **pollution control laws; or**

35 **(2) adopting or enforcing more restrictive ordinances to further**
 36 **the expressed purposes of air pollution control laws.**

37 **(b) To enforce local air pollution ordinances under subsection**
 38 **(a), a county, city, or town must establish or designate an agency**
 39 **to act for the county, city, or town as a local air pollution control**
 40 **agency.**

41 **(c) A local air pollution control agency established or designated**
 42 **by a county, city, or town under subsection (b) may:**



1 **(1) enforce the air pollution ordinances of the county, city, or**
2 **town;**
3 **(2) undertake air pollution control efforts on behalf of the**
4 **department under a contract entered into under**
5 **IC 13-17-3-9.5; and**
6 **(3) administer the air pollution control program of the county,**
7 **city, or town in cooperation with one (1) or more other**
8 **counties, cities, or towns within the same air quality basin**
9 **under section 3 of this chapter.**
10 SECTION 4. IC 13-17-12-4 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 4. ~~An~~ **A local air**
12 **pollution control agency of a county, city, or town that has entered**
13 **into a contract with the commissioner under IC 13-17-3-9.5** shall
14 submit annual reports as requested by the department.

